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ABSTRACT

Evaluating the charge that federal regulation of education is "excessive" entails a political analysis of regulatory problems and of the relative cost efficiencies of providing equal educational opportunity, the goal of such federal regulation. The theoretical framework for this political explanation emphasizes the "implementation relationships" that develop between the regulatory bureaucracy and the constituencies affected by equal opportunity laws (for instance, poor children, schools, or teachers). Implementation relationships can be "corporatists," in which the bureaucracy cooperates with a constituency represented by one or two major beneficiary organizations; "pluralist," where the bureaucracy has many relationships with both beneficiary and cost-bearing constituencies; or one of "capture," in which the bureaucracy collaborates with one or two major cost-bearing constituencies. The 15-year implementation history of Title I of the Elementary and Secondary Education Act (ESEA) indicates that educational professionals in local education agencies have established a "capture" relationship with the federal bureaucracy. Further political analysis locates the reasons for this capture in ESEA Title I's mix of allocation and regulation policies and in the congressional, presidential, and judicial constraints on the bureaucracy. The capture relationship has meant relatively lax but more cost-efficient regulation. (Author/RW)

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THE POLITICAL ECONOMY OF "EXCESSIVE" REGULATION: THE CASE OF EDUCATIONAL OPPORTUNITY

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Abstract

The objectives of this paper are twofold: to develop a theoretical framework for understanding the genral problem of excessive federal regulation, and to explain and evaluate the alleged excessiveness of regulation in the area of educational opportunity. I take as my central problem the "implementation relationships" among administrative agencies, clients and other interested groups; it is the nature of these relationships, I argue, that determines the relative need for prescriptive and coercive regulation. These relationships are conceptualized in a typology that draws on theories of political economy. The occurrence of these types is predicted to be associated with variations in several political and economic conditions of public policies. The theory is tested against the 15-year implementation history of Title I of the Elementary and Secondary Education Act. Support for the theory indicates the strong political relationships for successful reform. Recommendations to improve policy performance through methods such as decategorization and vouchers are finally evaluated in light of the theory.

With the election of Ronald Reagan to the Presidency, the ascendance of Republican philosophy if not control in Congress, and the growth of public cynicism toward government in general and the liberal Democratic agenda in particular, many established public policies are feeling political pressures to which they are quite unaccustomed. Federal education policy is a prime example. Candidate Reagan promised during the 1980 presidential campaign to abolish the Department of Education, and the proposal remains on the presidential agenda. Federal regulations governing the implementation of bilingual education were withdrawn by the Administration in early 1981. In 1982 the Reagan Administration intends to recommend the consolidation of fifty categorical aid programs into two educational block grants.[1] These particular developments are of course unique to education; however, their general political thrust is common to many policy arenas. Education is becoming yet another case in the politics of deregulation.

Once the most favored instrument of national policymakers, regulation is now being assailed throughout the federal government. From the creation of the Interstate Commerce Commission in 1887, through the proliferation of independent economic regulatory commissions such as the Federal Reserve Board, the Federal Trade Commission and the Securities and Exchange Commission, to the recent reliance on "new regulation" to ensure environmental quality, equal rights and worker health and safety, regulatory policy enjoyed substantial political support.[2] Congress and presidents could avoid difficult political conflicts by delegating problems to regulatory bureaucracies. Regulatory decisions reaped additional legitimacy from the expert, non-partisan processes that produced them. Major interest groups were also pleased; they could often profit, or at least minimize their losses, by influencing administrative policymaking.[3] Since the late 1970's, however, political support

for regulation has eroded.

Opposition to regulation has been extensive and diverse. New public problems challenged the wisdom of old regulatory goals and practices. The chronic domestic energy shortage ultimately cost consumers the price protection of oil and natural gas regulation, and is threatening to weaken environmental safeguards. Unprecedented inflation has raised serious questions about the financial burdens of regulatory enforcement and compliance borne by government and business. Regulation no longer affords Congress protection against political conflict because the subjects of regulation now inundate legislators with complaints of regulatory excess or inadequacy.[4] As the uncertainties of competition have diminished in mature industries such as airlines, trucking, banking and securities, the business community has even begun to accept deregulation of its most cherished economic protections. The resurgence of free enterprise ideology in contemporary political rhetoric completes the turnabout. Regulation has fallen from grace, and alternatives are being widely sought.

Education is as much a part of this general political trend as is business and industry. Much of the current criticism of federal education policy focuses not on the goals of those policies but on the excessive, unreasonable or ineffecitve regulations employed to implement them. Parents scorn the courts for imposing long bus rides and undesirable schools on their children when good schools are within walking distance. Teachers complain of the constraints on pedagogical options created by the rules governing aid to poor, handicapped and bilingual children. School officials resent the prescribed adaptations and administrative disruptions forced by the seeming patchwork of state and federal categorical aid programs. The most politically prominent

recommendations to alleviate these and other education ills likewise involve some manner of deregulation. Federal educational block grants would substitute local discretion for national prescription to specify the "public interest" in education. Matching grants would replace federally required services with incentives for local educational agencies to provide programs designated by the federal government for proportional financial support. Tuition tax credits and educational vouchers would employ competition among schools instead of further programmatic regulation to raise education quality and equality. In short, regulatory problems and deregulation alternatives are as prominent in education politics as in any policy arena.

The purpose of this inquiry is to develop a political explanation for the regulatory problems that plague federal education policy, and to provide a political theoretical basis for anticipating some of the consequences of regulatory reform. Although the point tends to get lost in the enthusiasm for deregulatory panaceas, regulatory policies are not without substantial beneficiaries and are not lacking in powerful political support. Regulatory reform cannot hope to succeed without overcoming or accomodating the political coalitions that support federal education policy as it is now implemented. As this inquiry will show, the political obstacles to <u>successful</u> regulatory reform are formidable indeed.

Defining Education's Regulatory Problems

The term "excessive federal regulation," which fairly summarizes the object of this analysis, implies that regulation becomes problematic when its costs are not warranted by its benefits. That is, regulation is excessive if too many resources are being expended to produce too few rewards.

In language that parallels welfare economics, then, excessive regulation exists when the total, discounted, social benefits of a regulatory process do not justify its total, discounted, social costs. The definition merely parallels welfare economics because it does not insist on maximum net social gain as a welfare criterion; the standards for policy justification are left open. The definition is also not intended for quantitative comparisons of policy alternatives; hence, such problems as measuring non-marketable values and establishing a single metric for all costs and benefits are not crucial.[5] The utility of the definition is simply the conceptual model that it provides for specifying the components of the regulatory problem. It underscores the need to account for regulatory benefits as well as the oft-cited costs, and to specify a normative criterion appropriate to the regulatory goals.

Federal education policy is intended to provide many particular benefits: to improve the quality of education received by poor and handicapped children, to enhance vocational training, to assist school districts with desegregation, and to promote college education, among others. Virtually all of these benefits, however, are provided in pursuit of a single social goal. By and large federal education policy is intended to provide the social benefit of equal economic opportunity, or at least, equal educational opportunity. The federal government is not granted by the Constitution, and has not legislated for itself, an explicit role in specifying the content or quality of public education. That role is reserved for state and local governments, and has long been played and jealously guarded by them. The federal role in education is essentially based on the goals of equality of access and service.

How much social value should be attached the benefit of equal opportunity, and in what amount is it provided? Answers to these questions are necessary to assess the excessiveness of regulatory costs. Unfortunately, neither question

can be answered in the monetary terms or with the specificity possible when measuring regulatory costs. Both questions permit, however, sound empirical answers that are adequate for this analysis.

Economists have tried to estimate the social value of government investments in educational equality, but have had little success. While there is no doubt that education is an important prerequisite for an individual's productive participation in a modern economy, the precise improvement in gross national product or productivity that can be expected from incremental federal contributions to education is unknown.[6] A political measure of this social value is, though, less problemmatic.

The American government expressly regards equal opportunity programs such as education, manpower training and affirmative action, as its most preferred instruments for addressing the major problem of economic inequality. The unequal distribution of wealth and income creates a fundamental political cleavage in most modern industrial societies. It is a particularly vexing problem because it is rooted in the market economy and coexists uneasily with the norm of political equality.[7] Policies to maximize economic equality ultimately conflict with the pursuit of economic efficiency. The tradeoff is not complete, but at some point governments must choose between the two economic goals.[8] The United States has decided this issue in clear favor of efficiency. It has demonstrated comparatively strong resistance to equalizing the distribution of wealth or income through progressive taxation and substantial transfer payments. Instead, the United States has tried to forestall choices along the tradeoff curve by first eliminating those impediments to equality that do not entail losses of efficiency. To this end, two strategies have been paramount. First, the federal government has upheld or reinforced

constitutionally proscribed obstacles to economic achievement, such as racial or sexual discrimination in employment. Second, the government has subsidized individuals who would not otherwise "start equally" in the economic system, through programs such as compensatory educational finance and vocational education. Federal education policy is, then, one of the most highly valued weapons in the national government's fight against a most enduring and serious problem. Unless American values shift to permit greater direct redistribution, equal opportunity goals will remain at the top of the list of federal social welfare priorities. Because educational expenditures further these high priorities materially and symbolically, regulatory inefficiency would have to be exteme indeed to offset total social benefits.

What is meant by extreme, of course, raises the issue of justication. Two criteria are relevant to the evaluation of educational aid: political rights and Pareto Optimability. The first criterion has been articulated by the courts. In the cases of racial access and local financing the courts have interpreted equal educational opportunity as a constitutional right, and mandated institutional change to realize equality.[9] Similarly, the courts have interpreted bilingual education legislation as establishing a right to bilingual instruction for non-English speaking children.[10] The judicial position that equal educational opportunity constitutes an actual or veritable political right establishes a generous criterion for justifying regulatory costs. Political rights are not to be abridged simply because their provision is economically inefficient; indeed, only costs that involve competing political rights are constitutionally sufficient to deny such equality. The courts have not, however, enforced the implementation of equal educational opportunity without regard to costs, and have left ambiguous many of the possible dimensions of equal educational opportunity.

In principle, the rights criterion leaves policymakers considerable discretion over the content of equal opportunity and the issue of justifiable costs. In practice, politics effectively limits this discretion to the narrow lattitude of a Pareto criterion. The current level of educational benefits and the costs incurred to produce them have already been justified by legitimate political processes; a strong presumption therefore exists against alternative or reform programs that do not at least maintain the current level of beneifts. This presumption is reinforced by the prominence of equal educational opportunity among remedies for economic inequality and by the judicial view that equal educational opportunity approaches the status of a political right. Dramatic political changes could, of course, overthrow the two criteria that seem to have justified the development of federal education policy. More probable, though, is continued federal support for these criteria, with reform efforts focused on producing comparable benefits for less costs. That is the expressed (although perhaps not the genuine) intent of the Reagan Administration's proposals for decategorization and decentralization.

The problem, then, of excessive federal regulation of education is essentially one of cost inefficiency - i.e., costs that could arguably be reduced without reducing benefits. Much of the cost of regulation is, of course, administrative; all program expenditures of federal, state and local governments that are not intended to reach ultimate program beneficiaries are regulatory costs. Other regulatory costs are intangible or indirect. They include familiar school level complaints like restrictions on pedagogical freedom, disruptions of political and organizational routines, and limitations on innovation. They also include the inevitable regulatory by-product of litigation. If these costs can be reduced through reforms such as program consolida-

tion, increased local discretion, or replacement of prescriptive federal controls with incentives or output controls, without diminishing policy benefits, regulation is indeed excessive. If reforms or alternative programs cannot reduce costs without proportionally eroding benefits, regulation is justifiable. The purpose of this analysis is, then, to understand how politics affect the efficiency with which equal educational opportunity is pursued, and to explain why that efficiency is lower than we would ideally prefer.

A Theoretical Approach

The political analysis will be carried out with the aid of a theoretical framework designed to understand policy implementation problems generally. The framework emphasizes the "implementation relationships" that develop between the federal government and those administrative constituencies (e.g., impoverished children, schools, teachers) the government tries to affect. These relationships between federal agencies and their constituencies are an important key to understanding policy performance. With respect to the problem of regulatory inefficiency it is these very relationships - e.g., between federal and local governments or between local service deliverers and clients - that are characterized by supposedly excessive rules and regulations. Demands for less coercion, prescription and constraints, and more voluntarism, participation and flexibility in equal opportunity programs are essentially demands for more cooperative or trusting relationships between the federal government and administrative constituents.[11] Understanding these political relationships is therefore important for more than the development of better implementation theory; it provides a sound political basis for effecting remedies to problems such as excessive regulation.

The theoretical framework identifies a number of logically possible and

politically probable implementation relationships, and links these to policy performance predictions. General political explanations for variations in these implementation relationships are also offered. To the extent these explanations are valid, a political understanding of policy performance is provided. Partial validation of the theory, and a concrete political understanding of regulatory excess in education, will be given by an empirical focus of the oldest and largest of federal equal educational opportunity programs: Title I of the Elementary and Secondary Education Act of 1965.

Implementation Relationships

Before implementation relationships, and in turn policy peformance, can be explained, a systematic means of describing or measuring their variation is needed. It will become useful to conceptualize implementation relationships as composed of two purposeful dimensions: 1) constituent initiatives and 2) bureaucratic strategies. Each dimension summarizes the actions and intentions of the respective actors or organizations toward each other. In equal opportunity programs the constituent initiatives include the behavior of schools, state bureaucracies, teachers, etc. toward the federal government while the bureaucratic strategies subsume the outward activities of the federal implementing agency. The intersection of the two dimensions describes the implementation relationship. The immediate conceptual problem, then, is how to describe regular variations in political behavior across these separate dimensions; their intersection and policy consequences are subsequent issues.

Consider first the varieties of constituent behavior. With little risk of oversimplification the purposive aspect of the constituent dimension can be handled by assumption. Constituents and their organized representatives (hereafter referred to collectively as interest groups) interact with government agencies to secure policy benefits. Specific contacts may be initiated

for reasons less ambitious than political influence in the immediate sense. But all liaison is conducted with the hope of at least promoting good will or establishing credit for longer term advantage. This is not the thorny conceptual problem, however, The more difficult problem is how to summarize interest group actions on a single dimension. Every bureaucratic agency, large or small, has a constituency of at least several major interests, each of whom may be employing any of a number of tactics to influence policy. To the extent that the bureaucracy responds to group demands, different configurations of participating groups and tactics will encourage different policy decisions. In essence the conceptual problem is a problem of representation: what interests are represented in the bureaucracy and how much wieght is attached to each? The problem is conceptually difficult because interest representation in the bureaucracy occurs by and large informally. Formal provisions are few. At the federal level, for example, bureacuracy is held accountable to some ill-defined public interests through fiscal, programmatic and procedural oversight conducted by Congress and the President, and by political control of executive appointments. But legal guidelines for direct interest group participation are limited to rules governing advisory committee representation and requirements for hearings and comments in administrative rulemaking.[12] Standards for evaluating bureaucratic representation are also ambiguous. Democratic representation is never pursued in the bureaucracy, but the bureaucracy's performance is nonetheless evaluated against some approximate standard of public interest.

To simplify the concept of bureaucratic representation, it is important to recognize that an agency's policymaking responsibilities are circumscribed relative to those of the legislature, and likewise, its constituency is not a popular mass unstructured except by geographic districts. Bureaucracies have limited substantive jurisdicitons in which functional, rather than geographic, interests effectively structure the constituency. The Elementary

and Secondary Division of the Department of Education, for example, must represent the interests of students, parents, teachers, and administrators, and various minority groups. Its constituency includes virtually the entire American population. The groupings of constituents relevant to it, however, are not equally weighted geographic aggregates; it has no way of perceiving constituent interests in those terms. It perceives its constituents in terms of the functional interests that inhere in its substantive responsibilities. If it strives to represent the views of its constituents in its decisions, it considers the demands of interests organized around their functional stake in the agency's mission. Regardless of how we might ultimately evaluate the performance of bureaucracy, the representation of interests in bureaucracy can only be described and judged by functional categories.

To analyze the functional representation of bureaucracies generally, it will become useful to categorize all functional interests as either beneficiaries or cost-bearers. This entails substantial simplification of the concept of functional representation, but it preserves the essence of political conflict and cooperation in bureaucracy. All public policies provide benefits to some members of society at the expense of others, and this dichotomy is often the basis for political conflict.[13] Since bureaucracies are established around substantive policies, it is often possible to distinguish bureaucratic constituents as either functional beneficiaries or cost-bearers. The Title I bureaucracy, for example, has economically disadvantaged children as legally intended beneficiaries, local education agencies in a joint role as cost-bearers and beneficiaries, and education professionals, who must adapt administratively and pedagogically to federal regulations, as cost-bearers. The representativeness of bureaucratic decision-making can thus be described in terms of the balance among beneficiaries and cost-bearers.

Constituent initiatives shall be conceptualized along a single continuum that varies from a participatory pattern dominated by beneficiaries to a pattern dominated by cost-bearers. In the middle of the continuum is a mixed pattern in which both beneficiaries and cost-bearers participate effectively. The probable impact of these patterns on policy performance is similar to the economic impact of different configurations of producers and suppliers in a private market. In fact, the market analogy is a useful way to characterize constituent initiatives.

The beneficiaries of a public policy are in much the same position as buyers in a marketplace. Both consume goods (be they public or private) until the marginal utility of doing so becomes negative. In economic theory the buyers are assumed to be so numerous that none can affect the price through individual decisions. If the buyers are few, exchanges become suboptimal for producers and a condition of market failure is said to exist. The extreme condition, where only one buyer is in the market, is called monopsony. In a similar sense, any pattern of constituent initiatives in which a single benefitting group is virtually the sole bureaucratic participant shall be labeled monopsonistic. Under such conditions the major beneficiary, like the lone buyer in a private market, threatens to control the distribution of the goods or services. With respect to both the representation standard of functional balance and the statutory objectives of the agency, this outcome can be interpreted as suboptimal. Policy benefits will be allocated on the terms established by the monopsonist. A disregard for the costs borne by cost-bearers is a likely outcome. Extreme cost inefficiency would likely plague ESEA Title I if representatives of the poor, for example, were in sole command of the federal bureaucracy.

At the other end of the constituency continuum is a pattern of group

initiatives similar to that of an economic monopoly. In a private market an optimal exchange for both buyers and sellers also depends on there being enough sellers so that none can dictate prices. For a variety of reasons this condition is not always satisfied, and a single monopolist or several oligopolists are able to extract larger profits than a competitive market would allow. In the production of public goods the cost-bearers are in a position analogous to that of private good suppliers. Although a bureaucratic agency is physically supplying the public good, its political role is more that of an economic middleman. The cost-bearers, who change their behavior, incur direct costs, or pay money to the public treasury, are the ones who ultimately supply the public good. For example, a local school district that reorganizes its programs to suit federal goals can be considered for political analysis, the supplier of the public good of equal opportunity. Although schools are supposed to be producing education for all children, if they cannot produce education on their own terms, they are indeed bearing real costs. If the organized constituency of an agency comes to be represented by a single cost-bearing group, the production of the public good is in danger of being provided on terms established unilaterally by that group. The Department of Education, for example, might relax spending rules if the initiatives from its functional constituency were dominated by, say, local school administrators. In a descriptive as well as a theoretical sense, then, <u>monopolistic</u> initiative is the appropriate label for that end of the constituency continuum controlled by cost-bearing groups.

In the middle of the continuum is the condition of perfect competition. In economic analysis competition approaches perfection as, among other things, the number of buyers and sellers of private goods becomes larger. In this political analysis competition approaches perfection as the initiatives of

bureaucratic constituents become functionally representative. When group initiatives are functionally balanced among and between beneficiaries and cost-bearers, it shall be labeled competitive. Theoretically a competitive pattern of representation is conducive to the optimal production of public goods, -- i.e., to a distribution of costs and benefits that provides a proportional surplus to each participant. Whether the optimal outcome does occur depends on other factors, including most prominently the strategy of the bureaucracy. But competition is, given any outcome, an apt description of functional balance among organized participants.

The constituency dimension describes a continuous pattern of change in group initiatives. As it extends from monopsony to competition to monopoly it describes smooth changes: from beneficiary domination to increasing cost-bearer participation to balanced representation to decreasing beneficiary participation to cost-bearer domination. To facilitate analysis it is useful to divide the continuum into three ordinal categories designated by their extrema. The trichotomous dimension is depicted in Figure 1. When cross-tabulated with the bureaucratic strategy dimension, also reduced to a trichotomy, a three-by-three typology of relationships between constituents and the bureaucracy is produced.

To understand these relationships it is necessary first to understand the bureaucratic strategies that contribute to them. Among the political and programmatic motivations and the passive and active tactics for accommodating constituent groups is a singular basis for distinguishing between various bureaucratic strategies. The essence of a bureaucratic strategy can be described by the interests that are being favored or disfavored by it. For example, in the case of educational opportunity a strategy that advantaged large urban schools at the expense of poor rural schools might be identified. For theoretical purposes a general method for describing strategies is re-

quired. As with interest group initiatives the concept of functional representation provides the key. Bureaucratic strategies, like patterns of group participation, differ in a politically signficant fashion as the balance of functional interests effectively represented by them varies. In both instances the major functional difference between interests is, arguably, that between the beneficiaries and cost-bearers of the bureaucratic function. Accordingly, bureaucratic strategies are conceptualized as a unidimensional variable that ranges from exclusive beneficiary representation to exclusive cost-bearer representation.

Figure 1: A Typology of Implemenation Relationships

Constituent Initiatives	Bureaucratic Strategies: Corporatist	Pluralist	Co-optive
Monopsonistic	Corporatism		
Competitive		Pluralism	
Monopolistic			Capture

This continuum subsumes several discrete strategies that have been prominent in studies of bureaucratic politics, but have never been conceptualized in systematic relationship to each other. In theory an executive agency has an infinite variety of political strategies from which to choose. Innumerable combinations of beneficiary and cost-bearer groups can be attracted into political alliances with the bureaucracy: it is important for descriptive accuracy to recognize the rich variety of strategies that executives play, and it is essential for explanatory purposes to appreciate that these strategies can be arrayed along a continuum of functional representation. Heretofore the connections between disparate types of public-private cooperation have never been drawn. But, for analytical parsimony it is also useful to divide this continuum into three segements identified by their extrema--corporatist, pluralist and co-optive strategies. These labels are employed because they denote familiar forms of political accommodation. The strategic dimension should nevertheless be understood as a continuous variable defined independent of these convenient nominal concepts.

Referring to Figure 1, the left pole of the continuum is characterized by bureaucratic strategies that cater exclusively to beneficiary groups. In the extreme the executive agency believes that its programmatic and political goals can be best accomplished by striving for a cooperative relationship with those groups that are mandated to benefit, or stand to benefit most, from executive policymaking. In a classic political exchange the bureaucracy lures the major beneficiary into a mutually beneficial association by offering the group considerable control over policy implementation, and substantial input into new legislative proposals. In return the bureaucracy hopes to avoid conflict and delay in the administrative process, and receive political support with the agency's sovereigns. No encouragement, and only pro forma access to bureaucratic policy channels is offered cost-bearing groups. A well-

known example of this pattern was the relationship between the Department of Interior's Office of Oil and Gas and the major oil companies represented through the National Petroleum Council; they worked hand-in-hand for decades developing U.S. oil policy.[14] In the extreme this strategy is labeled corporatist because, albeit on a smaller scale, it conforms to the method of political accommodation practiced by the quasi-corporatist states of northern Europe and Latin America. The state hopes to build support for the enactment and implementation of its policies by granting privileged participation to a sectoral interest group sufficiently powerful to deliver the support of its benefitting constituency. The effect of these relationships on policy performance should tend toward cost inefficiency and disproportionate benefits for well-organized beneficiaries.

As we move to the right along the continuum the bureaucracy diversifies its overtures toward interest groups, gradually providing more access to, and eventually accommodating more cost-bearing groups. At the midpoint of the continuum the agency finds it profitable, or essential, to appease all of its functional constituents. In this case it assembles only temporary coalitions of interests and establishes few stable bonds with organized groups. It finds more advantage in a flexible approach to its constituency, and its alliances become fluid over time. The pluralist label aptly describes the central tendency of this middle portion of the continuum. Over time this strategy should permit greater policy learning and adaptation, more cost efficiency, and a distribution of benefits more consistent with statutory objectives.[15]

The right third of the continuum is characterized by diminishing executive attention toward beneficiaries, and increasing deference toward cost-bearers.

An agency that displays this type of behavior evidently feels that its programmatic and political objectives cannot be accomplished without nullifying the oppositon of its cost-bearing constituents. In the extreme the bureaucracy finds the support of beneficiaries to be comparatively unprofitable, and therefore wagers its future success (or survival) on a compromise with its natural opponents. Independent regulatory agencies are most commonly accused of pursuing this political strategy. The Atomic Energy Commission, for instance, was reorganized in 1973 to combat precisely this method of accommodation. Of course, non-regulatory agencies also find it necessary to appease cost-bearers. The co-optive label attached to this strategy was coined by Philip Selznick to describe the bureaucratic strategy devised by the Tennessee Valley Authority.[16] The general policy consequences of this strategy are a reduction in costs at the price of a corresponding reduction in intended benefits.

When the strategies of the bureaucracy interact with the initiatives of interest groups, clearly distinguishable relationships develop. In terms of the typology in Figure 1, at least nine different relationships are determined conjointly by the two dimensions. If effects of each dimension on the relationships are <u>independent</u>, all of these combinations are theoretically plausible. For example, it is possible for a regulatory agency to try to co-opt its opposition, rather than court its supporters, in a competitive constituency--a possibility represented by the center, far right cell of the typology. Likewise, it is conceivable that a planning agency with a diverse, competitive constituency might prefer the simplicity and stability offered by a corporatist strategy--a relationship found in the center, far left cell. Because the two dimensions are continuous, countless combinations other than the nominal nine in the typology are possible.

What is theoretically possible and what is theoretically probable, however, are very different matters. As already emphasized, the actions of the bureaucracy and constituent groups are not independent; they are interdependent. It is therefore necessary to consider the interactive effects of these organizations on the relationships between them. Doing so produces the expectation that fewer than nine major patterns will exist--at least in the long run. The specific reasons for this expectation cannot be stated until the causes of interest group and bureaucratic behavior are understood, but the general logic is straightforward. Interest groups have great difficulty sustaining their participation in bureaucratic politics without government encouragement or cooperation, and executive agencies are constrained in their choice of strategies by the state of interest group activity in their environment. For example, if the bureaucracy is intent on following a corporatist strategy, those groups in an originally competitive constituency that are not granted privileged access to the government will eventually diminish their interactions with that bureaucracy. Similarly, a bureaucratic agency that would like to associate in a corporatist manner with its constituency will have little success if the initiatives of interest groups are monopolized by cost-bearers. These interactive effects mean that a few types of relationships will predominate.

The relationships that are theoretically most likely to occur are those on the main diagonal of the typology. In these three cells the structure of interest group initiatives and the strategy of the bureaucracy are consistent. That is, the actions of the groups and the bureaucracy are mutually supportive in an organizational sense. Moving away from the main diagonal, tension develops between the organizations. For example, a regulatory agency pursuing a co-optive strategy would face far fewer conflicts in a constituency

effectively monopolized by cost-bearers than in one that was competitive. The conflictual situations represented by the four middle, outer cells are not unlikely, but they are not as probable as the politically consistent patterns on the main diagonal.

These theoretically prominent patterns are the only relationships that are independently labeled. Corporatism denotes a cooperative relationship between the bureaucracy and a constituency represented by the major beneficiary organization(s). The policy consequences of such relationships, as already suggested, are likely to include cost inefficiency and disproportionate benefits to the well-organized constituents. Pluralism denotes a fluid relationship associating many groups in temporary relationships with the bureaucracy. The policy performance of these relationships has the greatest likelihood of cost efficiency and intended distribution of benefits - though delay may result from the fluidity of the coalitions. Capture denotes finally a bureaucratic agency collaborating with the cost-bearing organization that dominates its environment. Its policy consequences will include reduced costs and displaced goals or benefits. The most unlikely patterns are those described by the bottom-left and upper-right cells of the typology. Corporatist strategies cannot coexist for long with a monopolistic constituency, and co-optive strategies are completely at odds with monopsonistic constituencies. Eventually either the constituency will change shape or the bureaucracy will relent and change its strategy.

The two dimensional typology of implementation relationships provides the framework for the subsequent analysis. It enables the description of complex empirical relationships in a parsimonious, theoretically useful, and normatively significant fashion.

The Implemenation Relationships of ESEA Title I

The potential participants in implementation relationships for ESEA Title I are numerous. They begin obviously with the relevant elementary and secondary education offices within the Department of Education, and before 1979, within the Office of Education at the Department of Health, Education and Welfare. The bureaucracy's constituency features a number of both public and private interests. Because the federal government promotes equal educational opportunity, as it does other forms of equal opportunity, with the assistance of state and local agencies, subnational public organizations become important constituents. In the education field they include State Education Agencies (SEAs), Local Education Agencies (LEAs), and their organized representatives such as the Council of Chief State School Officers, the National School Boards Association, and the American Association of School Administrators. The private constituents are comprised of the disadvantaged target population. The target population is represented directly through groups like the National Council of Title I Parents, and/or indirectly through groups such as the NAACP and the Lawyers Committee for Civil Rights Under the Law. The constituency also includes service delivery professionals represented apart from state and local governments. In education these are prominent, including the National Education Association (NEA) and the American Federation of Teachers (AFT). Rounding out the constituency are interests less directly affected by any given program, but nonetheless concerned with the way in which equal opportunity is provided. Groups such as the Chamber of Commerce, the AFL-CIO, and the National Governors Conference stand out. This list of potential participants is not exhaustive; it is merely indicative of the interests at stake in the implementation of ESEA Title I, and how those interests

are represented.

Without the benefit of field research (which I am now conducting for this program, vocational education and manpower training) it is impossible to specify precisely and confidently the structure of political relationships associated with ESEA Title I. It is possible, however, to infer a great deal about these relationships from the public record and from analyses of policy performance. The implementation relationships of Title I are best described by the Capture cell of the theoretical framework. That is, the strategies of the education bureaucracy seem to emphasize co-optation and accommodation of local educational interests that are largely cost-bearers, rather than efforts to court a pluralistic constituency including representatives of client-beneficiary interests as well as the local educational professionals. The constituency initiatives likewise appear to be monopolistic, dominated by those interests bearing potentially large adjustment costs, rather than those interests intended to directly benefit from the program. This characterization may seem to fly in the face of rampant charges that Title I suffers from excessive regulation or cost inefficiency - products hypothetically associated with Corporatism, not Capture. As the subsequent political analyses will show, however, a Capture relationship is quite consistent with ESEA regulation as it is actually caused and practiced.

The Capture characterization of Title I's implementation relationships is supported by the following pieces of empirical evidence:

1. In all of the oversight hearings held by Congress in the last fifteen years to investigate the implementation of Title I, 99 groups or individuals have testified. Of these, 67 percent have been representatives of local school districts, 22 percent state interests, and only 7 percent spokespersons

for client interests. Because oversight hearings concentrate on administrative activities, the outside participants in them are typically those groups knowledgeable about the implementation process. In this case the preponderance of constituent representatives are from LEA s.

2. During the early years of Title I, studies show that the federal money was often neither supplementing resources devoted to poor children nor being spent on programs to benefit these intended recipients. The money was often treated as general school aid.[17] The early use of funds is clearly consistent with Captured relationships at the outset of the program.

3. Although an estimated two-thirds of Title I's financial benefits were by 1979 being allocated to proper targets,[18] this rather high level of distributional success is not attributable primarily to the efforts of the education bureaucracy. The accounting rules such as "non-supplantation" and "comparability" that have effected proper allocation were legislated by Congress and not established by the education bureaucracy.[19] The need for congressional intervention is consistent with Captured implementation relationships.

4. The statutory prohibition against supplantation of local or state funds with Title I funds is a subjective rule. The standard against which supplantation is judged is hypothetical, i.e., the level of funds that would, in the absence of Title I funds, be made available from non-Federal sources. Enforcement of the rule is consequently difficult. In the view of

many local school officials the rule is merely precatory.[20] The education bureaucracy has failed to tighten this regulation, thereby rendering enforcement more difficult and reducing the costs of adjustment for local school interests.

5. Only $750,000 of the $266 million in potential violations identified by the HEW audit agency had been returned to the Office of Education by 1978. Instead, the Office of Education adopted a policy toward alleged violations of the supplanting regulation that they would approve final determination letters only if a) the state admitted supplanting activities or pleaded no contest, b) the statute of limitations had reduced the original exception to near zero, or c) the amounts were a small part of the more substantial funding based on another regulation.[21] Such bureaucratic behavior is quite consistent with a strategy of accomodation toward cost-bearing interests.

6. From 1971 to 1977, allegations of malfeasance in reviews of local programs dropped from 200 to 11. The decrease occurred because auditors were no longer confident investigating the supplantation issue; their confidence was eroded by the lack of clear signals from the Office of Education.[22] Deliberate bureaucratic ambiguity on this issue removes compliance pressure from local and state education agencies, and allows the agency freedom to choose its positions on a politically advantageous case-by-case basis.

7. Despite the proliferation of reporting requirements and fund accountability rules, virtually no federal regulations govern

the design of programs offered to Title I children. The federal Office of Education insists that state education agenices are primarily responsible for evaluating programs prior to awarding Title I funds; USOE therefore intevenes little in programs design.[23] Because the SEAs lack the political support and the appropriate enforcement tools - their only weapon is the excessive "meataxe" of funding cutoffs - LEAs have effectively complete discretion over Title I program design.

With the partial exception of the congressional hearing data, none of this evidence directly indicates the political structure of Title I's suplementation relationships. The bureaucracy's explicit efforts to build political support and the constituency's attempts to influence federal decision-making remain beneath the empirical surface. The political compromises behind bureaucratic rule-making, enforcement and other implemenation activities have not been observed. These caveats notwithstanding, reasonable inferences about the political relationships underlying the performance of Title I can be made.

First, the performance data indicate plainly that the education bureaucracy has behaved in a most accommodating manner toward the traditional and professional interests of local education agencies. The federal bureaucracy has been reluctant to reduce the discretion of local education agencies over spending and program design. Important Title I accounting rules have been imposed by Congress rather than initiated by the bureaucracy. The federal education agencies have resisted tightening statutory accounting rules and have minimized their impact through lax enforcement. All of these outcomes are consistent with a close, monopolistic implementation relationship between the

federal education bureaucracy and the representatives of local education agencies such as the American Association of School Administrators, the National Education Association and the American Federation of Teachers.

This probable relationship can be classified as a case of Capture. The administrative and pedagogical interests of local educational professionals are not the interests that are intended to benefit most from the Title I program. The utimate beneficiaries, and indeed the raison d' etat, of Title I are the children of the poor or economically disadvantaged population. None of the empirical evidence suggests that the federal education bureaucracy attempts to, or does in fact, maintain a close political relationship with the representatives of the poor. It is true, on the other hand, that the poor are not the only intended beneficiaries of Title I; the local education agencies and to a degree the state education agencies stand to profit from the upgrading of schools within their districts with federal money. These benefits should not obscure, however, the decided cost-bearer position intended for local professionals. ESEA Title I was not a general federal aid bill for all schools, as local professionals desired.[24] Title I was explicitly targeted at the poor and educationally deficient; the intentions were made clear and the huge sums of money were made available to ensure that local professionals would not continue to provide inadequate education to these children. From its inception the program evinced suspicion of the motives of education professionals, and accordingly, imposed on them administrative and pedagogical costs necessary to ensure properly targeted service. The LEAs and their representatives are therefore the major cost-bearers of Title I (except for taxpayers), and only secondary beneficiaries. Their apparently monopolistic position in the federal bureaucracy's Title I implementation relationship is properly designated as Capture.

Of course, compelling support for this conclusion and interpretation requires more than inferences from policy performance. Lacking direct observations of internal bureaucratic politics, however, an alternative method of validation is necessary. Such an alternative is corroboration of independent, empirical theory. That is, if the apparent capture of the compensatory education bureaucracy, and the policy decisions of that bureaucracy, can be shown to follow logically from general principles of political behavior, the conclusion can be accepted with some confidence. That is the task to which the analysis now turns.

Explaining Implementation Relationships: Constituency Initiatives

One of the major determinants of the political activity and influence of an interest is its organizational development. Political success depends heavily on the ability of an interest to organize a large portion of its constituency into a formal interest group with substantial financial resources, a swift grass roots lobbying capacity, and an expert staff of policy analysts, lawyers, and government liaison specialists. The balance of constituent initiatives toward the bureaucracy will likewise be shaped by the organizational success of constituent interests.

This balance will not likely reflect the relative, aggregate, functional stakes of interests in the policy being implemented. All interests are not equally capable of organizing their interests and becoming an important factor in a bureaucracy's political life. As the size of the potential membership of the interest group increases and the material stake of any given constituent in the interest decreases, the interest group becomes more difficult to organize and its membership and resources grow less optimal.[25] In other words, as an interest becomes more diffuse, it is less likely to be represented by a strong political organization. The major causes of this organizational phenomenon are material disincentives for constituent support

of collective action: first, the "free rider" incentive that discourages small contributions to political activities whose benefits are enjoyable regardless of contribtuion, and second, the negative "marginal material value" of political contributions by small constituents.[26] Interests may try to overcome these organizational problems by providing selective incentives that constituents cannot receive without becoming members; however, the cost of these incentives subtracts from the organizational resources available for political action.[27]

This theoretical "logic of collective action," as it is commonly known, causes variable problems for education interests. The parents of Title I eligible children, and other supporters of the opportunity interests of the poor, face huge organizational obstacles; their large social interest is dispersed among millions of individuals, and strong selective incentives are not readily available. Their representation before the Title I bureaucracy through skeletal national organizations such as the Lawyers Committee for Civil Rights under the Law and the National Council of Title I Parents is evidence enough of these organizational problems. The tens of thousands of teachers concerned with compensatory education would face similar organizational difficulties if their only organizational incentive was this policy issue. Their organizing efforts are aided immensely, however, by the selective incentive of collective bargaining for teacher salaries and benefits. The substantial organizational resources of the National Education Association and the American Federation of Teachers owe much to this non-political benefit. The lowest collective action hurdles face the interests of chief state school officers, school boards and school administrators. They lack, however, the powerful, selective, material inducements available to teacher organizations and consequently do not eclipse the teachers in group resources.

The general effect of the logic of collective action is to facilitate the participation of professional education interests and handicap the participation of economically disadvantaged interests in Title I implementation relationships. This expectation is borne out by the political ties that the data suggest underlie the administration of Title I. This general effect does not include, however, two important factors that also determine implementation relationships and can counteract the inherent political disadvantage of target groups. The first is the effort the bureaucracy can make to encourage the participation of the representatives of the poor, and to build political support among them. That is the factor of bureaucratic strategies to be addressed in the next section. The other factor is the structure of the implementation process, which affects the costs and the benefits of constituent initiatives, and thereby either increases or reduces the organizational hurdles faced by constituent interests. Variations in this process factor affects the structure of implementation relationships, and in turn, the performance of the policy.

Assuming that interest groups choose their forms of political involvement by comparing the expected policy benefits of a political strategy to the organizational costs of the strategy, anything that affects those costs and benefits will affect constituent initiatives. The structure of the implementation process does this in many ways. Probably the most important way is the process's relative emphasis on <u>regulation</u> or <u>allocation</u> tools to accomplish policy goals.

Policymakers have two <u>broad</u> options available to them for effecting social change. They can either provide the means or incentives to target groups for changing their behavior, or they can require specific social change by law and impose sanctions for failure to comply. The first policy

instrument, or allocation, tries to accomplish social goals by a) providing resources to individuals or groups who are trusted to use them in good faith pursuit of social goals, or b) by rewarding with resources groups or individuals who demonstrate good progress toward the fulfilment of social goals.[28] Allocation instruments, particularly of the "fund and trust" variety, are favored by most local education professionals for the purusit of federal equality goals. The second basic policy tool, or regulation, intervenes more authoritatively in the social system; target groups are instructed with great precision how they must change their behavior. Regulation is, of course, the method of federal intervention opposed by most local education professionals.

Among the many factors that affect the success of these policy strategies - e.g., the quality of policy theory, validity of performance measures, adequacy of service technology - the political relationships between the federal implementing agency and its constituency are quite important.[29] Allocation instruments cannot work if a political relationship of trust and mutual interest does not exist between the federal bureaucracy and the recipients of federal funds. Regulation instruments are blunted if the federal agency is not supported politically by the beneficiaries of its authority. What is important to recognize about these political relationships is that they are at least partly manipulable through the choice of policy instruments or mixes thereof. The effects of different instruments on constituent initiatives are, moreover, predictable from their interaction with organizational constraints.

Allocation programs encourage patterns of constituent initiatives with a tendency toward monopsony; i.e., beneficiaries predominate and cost-bearers are scarce. The reason is straightforward. Allocation policies distribute

benefits in relatively concentrated amounts to target groups and dispense costs relatively widely. Material incentives for organized participation are therefore high for beneficiaries and low for cost-bearers. In the extreme - as, for example, with price supports for agricultural commodities - the policy costs are so thoroughly diffused, often among all taxpayers, and the benefits are so narrowly focused, that the group representing the beneficiary interest is the only constituency interest that approaches the bureaucracy. Precisely the opposite pattern is generated by regulatory policies. Regulation usually proscribes or prescribes the behavior of some target group for the benefit of society generally or at least some large social aggregate. The incentives for organized participation are therefore heavily concentrated on cost-bearers and widely diffused among beneficiaries. Constituency initiatives toward regulatory agencies tend toward monopoly. Neither polar tendency is conducive to optimal policy performance. When constituency intitiatives are monopsonistic, the cost efficiency of programs will tend to be undervalued. When constituency initiatives are monopolistic, the benefits of the policy are threatened. One of the keys, therefore, to improved performance is to employ a mixture of policy instruments that encourages patterns of constituent initiatives somewhere between these poles.

ESEA Title I employs a mixture of the allocation and regulation instruments. On the one hand, Title I is an allocation policy; it allocates educational opportunity to economically disadvantaged children, in pursuit of the goal of more equal educational and economic achievement. On the other hand, Title I is a regulatory policy; it attempts to prescribe and carefully supervise the programs that education professionals provide to disadvantaged children. Both instruments are employed with the aid of state and local education agencies. Federal funds are allocated to SEA s, which in turn allocate them

according to a federal formula to LEA s, but only after ensuring that federal regulations are being followed. The constituent initiatives generated by this mixture of policy instruments are predictable and problemmatic.

Because federal funds are channeled through state and local bureaucracies, Title I establishes more potential beneficiaries than simply the economically disadvantaged. The professionals staffing the state agencies and the local school systems stand to benefit from Title I if the funds can be used in ways that they choose. The interests of education professionals and the poor - which must be assumed to conflict to some degree to justify the federal role - therefore compete for policy benefits. Competition among program beneficiaries is not necessarily undesirable, and under approximate market conditions is valuable. If the incentives and resources for participation are, however, skewed to favor a particular beneficiary, competition is a problem. Title I fosters precisely such an imbalance. By concentrating substantial administrative and pedagogical costs on education professionals, Title I creates substantial incentives for organized political action. The addition of these cost-bearer incentives to the incentives of potential financial benefit gives education professionals a much stronger incentive than the ultimate beneficiaries to maintain political liaison with the federal bureaucracy.

The expected consequence of this incentive system is a pattern of constituency initiatives tending toward monopsony, or cost-bearer domination. The organizational incentives of interests in a primary role as cost-bearers and a secondary role as beneficiaries far outstrip the incentives of interests that are merely beneficiaries. Constituency pressure on the bureaucracy should largely involve the efforts of education professionals to minimize their costs and to increase their implementation discretion, and thereby, their benefits. This is exactly the political pattern that available empirical evidence sug-

gests prevails. Regulatory costs have been reduced and professional benefits increased through ambiguous accounting rules, lax enforcement and the maintenance of considerable local discretion over programs.

How can these problems be overcome? Several alternatives are available. The first is currently attempted within Title I. The design of local programs requires the formal participation of Parent Advisory Councils, to provide the input of disadvantaged beneficiaries who might otherwise have no implementation voice. Several problems plague this approach. First, it still leaves federal issues to the interests and influence of education professionals. Second, no assurance can be provided that Parent Advisory Councils are not merely legitimizing and quelling opposition to programs designed essentially by local education professionals. Mandating the participation of parents at the local level does not overcome the inherent disadvantage of this interest in time, expertise, etc. relative to the educational interests with which it must compete. Finally, it provides no guarantee of equal results across the nation. Equal results are, of course, the crowning goal of equal opportunity programs and the very reason for federal intervention in education.

A more promising alternative, at least from a political perspective, is the use of education vouchers. The basic problem with the implementation relationships of federal opportunity programs is that they create intermediate beneficiaries, who already have participation incentives from cost-bearing, to compete with the ultimate beneficiaries. This inherently unequal competition could be ended by eliminating the intermediate professional beneficiaries. By giving income-based educational vouchers to all families, or at least the families of the poor, two fairer forms of competition - between schools and between education consumers - would replace the unfair political competition

between the economically disadvantaged and the education professionals.

A final alternative, and one which lacks the imperfect market and political feasibility problems of education vouchers,[30] is to devise incentives or requirements for the federal education bureaucracy to counteract the pattern of monopolistic initiatives that predominates in its constituency. If the bureaucracy can be encouraged to pursue political strategies that court the support of disadvantaged beneficiaries, the tendency toward capture can be checked. The prospects of this alternative raise the final set of theoretical issues in this analysis. That is, what determines the political strategies of bureaucratic agencies toward their constituencies?

Explaining Implementation Relationships: Bureaucratic Strategies

Implementation relationships are not determined solely by the efforts of constituent groups bent on administrative influence. A bureaucratic agency need not "cave in" to the narrow demands of a monopsonistic or monopolistic constituency. If the agency's interests are not well served by a particular pattern of constituency demands, it can attempt to build support among other members of the constituency. Traditional theories of regulatory capture tend to ignore the independent power of the regulatory agency to structure its political constituency.[31] This is misguided because implementation relationships are two-way streets; both dimensions are important to explanations of their composition and consequences.

If bureaucratic strategies are an independent dimension, how are the differences in strategies employed by different agencies explained? Under what conditions will a bureaucracy pursue corporatist, pluralist, or cooptive tactics toward interest groups? Why, for example, do some regulatory agencies cooperate with public interest representatives while others cooperate only with their regulated clientele? Answers to these

specific questions lie in a general understanding of the behavior of the executive bureaucracy.

A generic goal, frequently employed in theoretical work on the bureaucracy, that promises to differentiate bureaucratic behavior is agency survival.[32] Survival, or its more aggressive complement, agency aggrandizement, captures the pervasive desire of bureaucratic organizations to maintain or enhance their positions in the national establishment. It promises to facilitate explanations of strategic variations because different executive agencies face different political hurdles in pursuing this common goal. They receive different amounts of presidential support and interest; answer to diffferent congressional sovereigns; and experience differing degrees of intervention by the courts. Accordingly, they must pursue different political strategies, including disparate approaches to interest groups, to advance their basic interests.

The factors offered subsequently to explain bureaucratic strategies toward interest groups are premised on the goal of bureaucratic survival, and focus on external constraints on these strategies. Internal bureaucratic causes of behavior toward interest groups are not explored systematically because major characteristics tend to be constant from one federal agency to the next. The key external constraints are those of the political environment. The agency's environment affects its mode of interaction with interest groups through, in essence, congressional, presidential, and judicial constraints. Differences in these constraints help explain why different executive agencies establish differing relationships with their interest group constituencies.[33]

1) Congressional Constraints

If the bureaucracy is going to accomplish its goals it must be attentive to the wishes of Congress. Funds for bureaucratic programs must be appropriated by Congress. Authority to undertake new programs must be approved by

Congress. Executive appointments and reappointments must be confirmed by Congress. Policy implementation is formally supervised by Congress. Whether the bureaucracy is formulating legislation or administering it, it must anticipate the congressional reaction. To do otherwise is to place its goals in serious risk of failure.

Congress supervises the bureaucracy through activities that collectively constitute congressional oversight. Broadly defined, oversight is any behavior by legislators or their staffs that is intended to have an impact or, regardless of intentions, has an impact on bureaucratic behavior. Oversight includes substantive oversight as practiced by authorization committees, fiscal oversight as conducted by Budget and Appropriations committees, and procedural oversight as usually handled by Government Operations (Affairs) Committees. Oversight is also a manifest as well as a latent process. It may occur through actual interchanges between Congress and the bureaucracy or it may operate through perceived threats.

How will oversight constrain bureaucratic strategies toward interest groups? Ceteris paribus, the bureaucracy will attempt to accommodate those interests championed by Congress through its potential and actual oversight activities. In the case of equal opportunity programs, if Congress demonstrates substantial and sustained concern for the effectiveness of the programs and the benefits to the disadvantaged, the agency is likely to try to acquire the political support of beneficiaries, and provide them, in exchange, a more effective voice in implementation.

The behavior of Congress over the last fifteen years of Title I implementation has not strongly encouraged the Title I bureaucracy to court disadvantaged beneficiaries. First, Congress has only infrequently examined the implementation of Title I for effectiveness or performance. Only eight

oversight hearings have been held since 1965 on Title I administration; this is a very poor record for a Congress that since 1974 has become increasingly involved in oversight.[28] Second, the periodic reauthorization processes have shown comparatively little interest in program impacts. Congress has been concerned primarily with the distribution of dollars and not how they are used. Regional conflict and urban-rural battles over the allocation formula, contests between block grant and categorical grant forces, and debates about fund concentration have been the major issues. Finally, despite the apparent congressional support for the poor suggested by the tighter accounting rules it has legislated, the key non-supplantation rule is ambiguous and perhaps merely precatory. Moreover, legislative history does not indicate that Congress expects the Title I bureaucracy to strictly enforce the law on an item-by-item accounting basis.[35]

Congressional interest in Title I has been in large part a distributive one. Congress has continuously concerned itself with the types of districts into which funds are being channeled. Congressional support for the program is dependent on the distribution of funds in politically attractive ways. Congressmen therefore favor rigid formulae that ensure benefits to their districts, and accordingly, concentrate their greatest political energies on structuring those formulae.[36] While the organized representatives of Title I beneficiaries have won important congressional victories, such as the non-supplantation rule, those triumphs are in part only symbolic. Accounting rules require application and enforcement to be effective. The Title I bureaucracy shows little inclination to pursue either vigorously; Congress supports this bureaucratic propensity by seldom engaging in critical oversight. The clearest congressional cue to the bureaucracy is that federal funds ought to reach the intended school districts. This task the education bureaucracy

performs effectively. Without congressional pressure to the contrary, the bureaucracy is free, then, to court the support of its most resourceful constituents. The Title I bureaucracy has done precisely that by co-opting the support of education professionals.

2) Presidential Constraints Because of the bureaucracy's sheer size and the civil service regulations that rule it, presidential influence has difficulty penetrating below the upper layer of presidential appointees. Formally, the president exercises control through a chain of command that extends (except in the case of independent commissions) into the bowels of the bureaucracy. But presidential power to direct even the upper echelon of employees governed by civil service rules (i.e., persons holding over 6000 "Super-grade" and Executive Schedule positions) is substantially circumscribed. Prior to the Civil Serivce Reform Act of 1978 executive positions were rigidly classified as either career (about 90% of executive jobs) or non-career (about 10%), limiting a president's ability to fill crucial jobs with cooperative personnel. Recalcitrant or inept career executives could not be reassigned, let alone dismissed, without extensive proceedings. Further, financial compensation could not be linked to job performance. Since reforms were implemented in 1979 the President and his appointees have acquired greater formal control in these areas. Those changes have not eliminated, however, the command problem. Central executive direction of bureaucratic behavior depends most on the political power and leadership of the President and his major appointees.

In the case of Title I the issue of presidential constraints is not so much one of control as it is of interest. ESEA was formulated by the Johnson Administration in consultation with the NEA and local interests. Although Title I was enacted as compensatory aid, it was understood by the Johnson

Administration that general aid uses were not prohibited.[37] The early implementation experiences of improperly targeted funds are consistent with this Executive view. In the Nixon and Ford Administrations concern about impacts on the disadvantaged was hardly a priority. Those Administrations emphasized limiting the Title I budget, and failing that, increasing its general aid qualities. Again, this would not discourage the Title I bureaucracy from its strategy of building political support among LEA s. Presidential cues apparently changed little under Jimmy Carter. Although his Administration was concerned about political support from the disadvantaged, its political alliance with the NEA was too strong for it to have insisted on representational changes in the Office of Education. Through four presidential administrations, then, evidence of executive efforts to discourage co-optive behavior by the Title I bureaucracy is far from strong.

3) Judicial Constraints A politically prudent agency recognizes the avenues of judicial appeal open to its constituents, and may therefore be constrained by the judiciary in its relations with them. If the agency hopes to avoid litigation, it must bring its decision-making processes and statutory interpretations into line with the views of the federal courts. In anticipation of, or as a result of, judicial decisions in favor of the procedural or substantive claims of particular interests, an agency may be more accommodating to those interests. This does not mean, however, that every interest with the financial means to litigate will be accommodated by the agency. The courts do not look with equal favor on the claims of every interest affected by an agency. Those interests favored by the courts are more likely to be accommodated by the agency than those interests not so favored.

Judicial participation in the implementation of Title I has been more supportive than congressional oversight or presidential leadership of the

interests of disadvantaged beneficiaries; however, its influence over the education bureaucracy is only moderately constraining and only recently so. Prior to the 1978 reauthorization of ESEA, recipients of Title I aid did not have standing to sue for benefits in federal court. Since 1978 the federal courts have decided several cases of consequence for the federal bureaucracy's relations with its constituents. In Alexander v. Califano, a class action suit filed by Title I parents against the Richmond (California) Unified School District, the courts rejected the school district's argument that non-supplantation rules are not to be strictly enforced when they conflict with educational program design, over which local authorities have jurisdiction.[38] Local discretion over educational programs is not an adequate justification for the supplantation of local or (in this case) state funds with Title I funds. The Alexander decision reduces some of the ambiguity in the non-supplantation rule and enhances the opportunity for legal recourse by disadvantaged beneficiaries. In Nicholson v. Pittinger the courts reinforced its view of the enforceability of the non-supplantation rule. The courts rejected the defense of the defendent LEA and SEA that non-supplantation was essentially a precatory rule requiring good faith implementation effort but not requiring detailed accounting of all program increments added with federal funds.[39] The courts have, however, drawn important boudaries for their support of the rights of Title I recipients. In Natonabach v. Board of Education of Gallup-McKinley County School District the federal courts agreed not to judge the auditing procedures employed by the bureaucracy to enforce Title I rules - a view that permits the agency to continue its limited interference in local educational practices.[40]

The consequences of these recent judicial decisions for bureaucratic strategies toward interest groups are not yet entirely clear. Although the

courts have classified the operational meaning of the important non-supplantation rule, education professionals continue to debate whether the rule is precatory or strictly enforceable.[41] LEA s have become more diligent in maintaining records of funding and expenditures as these records have become prerequisites for the successful demonstration of compliance. Beyond record-keeping requirements, however, little evidence exists to suggest that the federal bureaucracy has become more supportive of disadvantaged constituents, or more interested in encouraging a working political relationship with their organized representatives.

Conclusion

This analysis has advanced and attempted to support emiricially several arguments about the role of politics in the regulation of education. They deserve brief reiteration. The first argument is normative. The problem of excessive federal regulation of education should be understood, for political reasons, as essentially an issue of cost efficiency. The primary goal of federal education policy, the equalization of opportunity, produces material and symbolic benefits of high value in this nation's chosen approach to ameliorating economic inequality. The promotion of equal opportunity according to liberal criteria has been thoroughly justified by dint of a doctrine of political rights and a political consensus of long standing. A demonstration of excessive regulation requires, therefore, a showing of cheaper alternative methods of promoting the valued goal of equal opportunity.

The second argument is theoretical. The impacts of public policies, such as cost inefficiency, can be explained by the "implementation relationships" between federal agencies and their constituents, which can be explained *a fortiori* by the political incentives and constraints facing constituent initiatives and bureaucratic strategies. Cost inefficiency, for example,

results when a "corporatist" relationship between a federal agency and a major beneficiary interest, to the exclusion of any cost-bearing interest, characterizes implementation. Such a political outcome can be expected with pure allocation policies.

The third argument is empirical. Contrary to popular interpretation, the implementation of Title I should not be regarded as cost-inefficient or excessively regulated. Although schools are bound by accounting rules and required to maintain expenditure reports, important regulations are ambiguous and enforcement is lax. Relative to higher costs that could be imposed through tougher enforcement and the lower benefits that would probably attend alternative approaches (a subsequent point) the federal regulation of schools is not excessive. An important reason for these policy impacts is the monopsonistic political relationship that has developed between the Title I bureaucracy and education professionals. The mixture of allocation and regulation instruments employed in Title I encourages the political participation of education professionals to minimize their costs and maximize their discretionary benefits, while it discourages the participation of disadvantaged beneficiaries. The bureaucracy pursues the support of education professionals by accommodating their demands for lower implementation costs, subject only to the weak constraints of Congress which demands proper geographic funds distribution and the federal courts which demand local expenditure reporting.

The final argument is prescriptive. Proposals to alter the method by which equal educational opportunity is pursued should appreciate the political implementation relationships that are likely to be associated with them. The proposal to deregulate federal educational aid through block grants does not understand the significance of these relationships. The plan would

essentially convert federal educational aid from a mixed regulation-allocation program to a pure allocation program. Although the intended beneficiaries of the allocation would remain various disadvantaged populations, their participation would be meaningful only at the state and local levels where fund utilization decisions would be made. In these decentralized arenas disadvantaged beneficiaries would compete with education professionals and with each other. Two effects of this transplanted conflict are predictable. First, disadvantaged interests will exert less control over the spending of federal funds without the now-useful support of Congress and the federal courts. Second, the provision of benefits will be unequal across subnational jurisdictions- an unsettling consequence for programs intended to equalize opportunity.

At the federal level, moreover, block grants may have an unintended and undesirable effect. The federal bureaucracy will, under a block grant system, view LEA s and SEA s as its sole beneficiaries. To justify its very existence, the federal education bureaucracy will probably develop a "corporatist" relationship with education professionals, become a strong advocate for educational spending, and provide little encouragement to cost efficiency. By comparison, radical reforms such as educational vouchers, and incremental reforms such as administrative streamlining of categorical programs,[42] are more sensitive to the political causes of policy impacts, and more likely to successfully reduce excessive federal regulation.

Notes

1. Henry M. Levin, "Categorical Grants in Education: Rethinking the Federal Role," IFG Policy Perspectives (Spring 1981): 1.

2. The term "new regulation" was coined by Paul Weaver to emphasize important political and economic differences between the regulatory policies established since the late 1960s and the regulatory policies that preceded them. Paul Weaver, "Regulation, Social Policy and Class Conflict," The Public Interest (Winter 1978): 45-63.

3. Theories of industry support for traditional regulation are diverse, including, among others, Bernstein's "life-cycle" theory, Huntington's "capture" theory and Stigler's "original interest" theory. Cf. Marver Bernstein, Regulating Business by Independent Commission (Princeton: Princeton University Press, 1955); Samuel Huntington, "The Marasmus of the ICC," Yale Law Journal, 61 (April 1952): 467-509; George J. Stigler, The Citizen and the State: Essays on Regulation (Chicago: University of Chicago Press, 1975).

4. The clearest evidence that Congress has been drawn into the administrative fray is the swift increase in congressional oversight that has occurred over the last decade. A number of quantitative indicators and impacts are compiled in Lawrence C. Dodd and Richard L. Schott, Congress and the Administrative State (New York: John Wiley and Sons, 1979), chs. 5,6.

5. The many practical limitations of benefit-cost analysis are summarized in Peter O. Steiner, "The Public Sector and the Public Interest," in Public Expenditure and Policy Analysis, eds. Robert H. Haveman and Julius Margolis (Chicago: Rand McNally, 1977), ch. 1.

6. The difficulties that economists have encountered in estimating the returns on investments in "human capital" are detailed in Henry J. Aaron, Politics and the Professors (Washington, D.C.: The Brookings Institution, 1978), ch. 3.

7. This issue is explicated succinctly in Arthur M. Okun, Equality and Efficiency: The Big Tradeoff (Washington, D.C.: The Brookings Institution, 1975).

8. For a realistic, if not politically feasible, solution to this dilemma see Joseph Carens, Equality, Moral Incentives and the Market (Chicago: University of Chicago Press, 1981).

9. The Supreme Court has held since Brown v. Board of Education of Topeka, Kansas (347 U.S. 483, 1954) that racial segregation in education facilities is a denial of equal protection of the laws; equal educational opportunity cannot be withheld on the basis of race. In San Antonio Independent School District v. Rodriquez (411 U.S. 1, 1973), however, the Supreme Court found that a child's right to a public education is not a "fundamental right" under the Fourteenth Amendment. While this decision did not, then, strike down the

use of local property taxes to finance schools, several states, including California, Kansas, New Jersey and Connecticut, have decided that their state constitutions guarantee equally funded educations for all children. The seminal case granting this right to equal educational finance was decided by the California Supreme Court in 1971 in Serrano v. Priest, 5 Cal. 3d 584, 487 P. 2d 1241 (1971).

10. The Supreme Court decided cautiously in 1974 that language barriers constituted a denial of access to equal educational opportunity, and must be removed. The decision has a strong constitutional rights basis without referring specifically to the Fourteenth Amendment. See Lau v. Nichols (414 U.S. 563 1974).

11. The idea that "trust" in implementation relationships is necessary for deregulation is also developed in Guy Benvenisle, "Covert Purposes in Federal-State-Local Linkages: The Case of Bilingual Education" (Unpublished paper, April 1981).

12. See the Federal Advisory Committee Act of 1973 and the Administrative Procedures Act of 1946 for details.

13. This approach to political analysis is similar to that initiated in Theordore J. Lowi, "American Business, Case Studies and Political Theory," World Politics, 16 (1964): 676-715.

14. Discussed in Robert Engler, The Brotherhood of Oil (Chicago: University of Chicago Press, 1977).

15. Bureaucracies will be more willing to evaluate and substantially adjust their behavior if they are not constrained from doing so by a rigid and narrow political clientele; adaptability is increased if political support is diverse and manipulable. A similar point is argued in Aaron Wildavsky, Speaking Truth to Power (Boston: Little, Brown and Co., 1979), ch. 9.

16. Philip Selznik, TVA and the Grass Roots (Berkeley: University of California Press, 1949).

17. These findings are reported in Robert Goettel, "Federal Assistance to National Target Groups: The ESEA Title I Experience," in The Federal Interest in Financing Schooling, ed., Michael Timpane (Cambridge: Ballinger, 1978).

18. Findings in Stephen Barro, "Federal Education Goals and Policy Instruments: An Assessment of the Strings Attached to Categorical Grants in Education," in Timpane, ed., The Federal Interest.

19. Although these rules originated in the education bureaucracy, the fact that they became statutory law is indicative of the distrust of the education bureaucracy by beneficiaries of these rules.

20. Monica N. Holl, "The Title I Supplanting Prohibition," NOLPE School Law Journal,v. 9, no. 1 (1980): 30

21. Goettel, "Federal Assistance."

22. Testimony of Donald W. Burnes, National Institute of Education Senior Associate, before the Subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor, United States House of Representatives, October 15, 1977.

23. The Office of Education's Title I Audit Hearing Board clarified this position in Appeal of the State of Nebraska (Title I, ESEA, Docket No. 8-(10)-74). The decision is discussed in Holl, "The Title I Supplanting Prohibition," pp. 30-31.

24. Eugene Eidenberg and Roy D. Morey, An Act of Congress: The Legislative Process and the Making of Education Policy (New York: W. W. Norton, 1969).

25. This well known argument was formulated in Mancur Olson, The Logic of Collective Action (Cambridge: Harvard University Press, 1965) and substantially refined in Terry M. Moe, The Organization of Interests (Chicago: University of Chicago Press, 1980).

26. These and other disincentives are explicated in Moe, The Organization of Interests, chs. 1-3.

27. The organizational benefits of various selective incentives are thoroughly analyzed and tested in Moe, The Organization of Interests, chs. 4-5.

28. This distinction parallels one drawn between "input" and "output" controls in Benveniste, "Covert Purposes," pp. 3-4.

29. A useful list of variables affecting implementation is provided in Paul Sabatier and Daniel Mazmanian, "The Conditions of Effective Implementation: A Guide to Accomplishing Policy Objectives," Policy Analysis, 5 (Fall 1979): 481-504.

30. Some of the problems of vouchers are discussed in David K. Cohen and Eleanor Farrar, "Power to the Parents? - The Story of Education Vouchers," The Public Interest, 48 (Summer 1977).

31. Especially Bernstein, Regulating Business and Huntington, "The Marasmus."

32. For example see Anthony Downs, Inside Bureaucracy (Boston: Little Brown, 1967).

33. In John E. Chubb, Interest Groups and the Bureaucracy: The Politics of Energy (Stanford University Press, forthcoming) I have developed and tested numerous propositions about specific institutional constraints; herein only the most general effects are discussed.

34. Dodd and Schott, Congress and the Administrative State, ch. 5.

35. Holl, "The Title I Supplanting Prohibition," pp. 34-35.

36. The political incentives for this behavior are analyzed in Dennis Florig and John E. Chubb, "The Politics of Social Welfare Spending" (Unpublished Interim Report for the National Institute of Education, April 1980).

37. Frederick M. Wirt and Michael W. Kirst, Political and Social Functions of Education (Berkeley: McCutchan, 1972) reviews the general political history of compensatory education.

38. Alexander v. Califano, 432 F. Supp. 1182 (1977).

39. Nicholson v. Pittinger, 364 F. Supp. 669 (1973).

40. Natonabach v. Board of Education of Gallup McKinley County School Discrict

41. The debate is explicated in Holl, "The Title I Supplanting Prohibition," pp. 23-37.

42. Proposals to streamline categorical grants are developed in Levin, "Categorical Grants in Education."